

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC	)	EB Docket No. 11-71
	)	File No. EB-09-01-1751
Participation in Auction No. 61 and Licensee	)	FRN: 001358779
Of Various Authorizations in the Wireless)	
Radio Services)	
)	
Applicant for Modification of Various	)	App. FNs 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028,
Applicant with ENCANA OIL AND GAS	)	0004193328, 0004354053,
(USA), INC.; DUQUESNE LIGHT	)	0004309872, 0004310060,
COPANY; DCP MIDSTREAM, LP;	)	0004314903, 0004315013,
JACKSON COUNTY RURAL,	)	0004430505, 0004417199,
MEMBERSHIP ELECTRIC	)	0004419431, 0004422320,
COOPERATIVE; PUGET SOUND	)	0004422329, 0004507921,
ENERGY, INC.; INTERSTATE	)	0004153701, 0004526264,
POWER AND LIGHT COMPANY;	)	0004636537, 0004604962.
WISCONSIN POWER AND LIGHT)	
COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT,)	
LLC; DENTON COUNTRY ELECTRIC)	
COOPERATIVE, INC., DBA COSERV)	
ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL)	
AUTHORITY)	

To: Marlene H. Dorch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

Initial^[*]
Opposition to Maritime's 2.7.2013
Motion to Strike ("2-7 Motion") and Alternative Opposition ("2-7 Opposition")
And
Request for Sanctions

For the following reasons, separately, each of the undersigned distinct entities (Havens

[*] For reasons indicated below, including *failure to serve* by Keller-Maritime, Keller MO is not currently an authorized pleading and there is thus no time deadline at this time for a response. Thus, the undersigned may supplement this pleading at a later date. Further, the Opposition part of the 2-7 filing is an authorized opposition to an opposition, and thus there is no deadline to respond to it. For this reason also, the undersigned may supplement this pleading at a later date.

and SkyTel entities, together, “H-S) requests dismissal of, or in the alternative denial of, the 2-7 Motion; and in addition, each of H-S also request dismissal or, or in the alternative, denial of, the 2-7 Opposition (together, the “2-7 MO” or the “Keller MO”). The MO responded to the undersigned’s Motion to Dismiss and in the Alternative Opposition to Petition for Stay (“Motion”) of 2-1-13 (the “Havens-Skytel Motion and Opposition,” or the “HS MO”).

Further, each of H-S request that Sanctions be imposed on Robert Keller (“Keller”) and Maritime for reasons indicated herein with regard to the Keller MO along with preceding relevant history.

Regarding Timing. (To repeat the first footnote:) For reasons indicated below, including *failure to serve* by Keller-Maritime, Keller MO is not currently an authorized pleading and there is thus no time deadline at this time for a response. Thus, the undersigned may supplement this pleading at a later date. Further, the Opposition part of the 2-7 filing is an authorized opposition to an opposition, and thus there is no deadline to respond to it. For this reason also, the undersigned may supplement this pleading at a later date. Further, there is additional recent information relevant to this response for which the undersigned must review, with our NJ court action counsel, before I can use it in the response to the Keller MO. I will do this as soon as possible.

Keller MO Purpose, Procedural Issues, Defects and Request for Sanctions

(i) Keller and Martime, now with the proxy Choctaw, have done little by block and delay this Hearing, both on issue (g) and almost fully on all the other issues. The undersigned has been the main party to prosecute facts and law against Maritime-Mobex (always via its outside and inside counsel) violations since long before Auction 61, up to the HDO FCC 11-64. *Now--* when Havens and SkyTel entities, in their NJ antitrust law suit against Maritime, have evidence that has come in (with more regularly arriving) from approximately 300 subpoenas to parties with direct dealing with Maritime and its predecessors (or with him Maritime asserted it

has FCC-license based dealings, even if the other party was not aware it has any dealings at all)—Maritime counsel is hard at work and expense filings motions *to attempt to thwart* Havens and SkyTel actions to get this evidence (to the substantial extent it is relevant to this Hearing) to the Judge and EB: this is a topic under Section II of the undersigned filing in this Hearing of yesterday, 2.15.13. This evidence is held by Keller and his associated Maritime counsel in this NJ court action: the action is in large part based on the FCC rule violations that are also issues in this FCC Hearing. But rather than provide this evidence – as required by EB discovery demands—to the EB and Judge, Keller and his associated Maritime external and internal counsel are withholding it, and also blocking Skytel and throwing up smokescreens – the Keller MO is such an action.

(ii) Mr. Keller is the key witness for Maritime in its most important defense in this Hearing: its get-out-of-jail-free misuse of the “Second Thursday” doctrine. He was the only Maritime expert witness on this in the bankruptcy case which was, according to the testimony of Sandra Depriest at the Plan confirmation hearing, filed for the purpose of getting Second Thursday relief. Keller’s witness role was affectively solely for this FCC Hearing and the essential Maritime remedy under Second Thursday (since as just noted, the bankruptcy was set up and undertaken only to attempt Second Thursday before the FCC, and the Judge in the bankruptcy case recognized that only the FCC will determine if Keller’s witness assertions will work or not). The undersigned believe Mr. Keller failed to inform the Judge of this *dual role as key witness and counsel*, and we believe this should result in his disqualification as counsel to Maritime in this Hearing.

(iii) Mr. Keller has not informed the Judge that the Maritime bankruptcy court chapter 11 Plan (Choctaw Plan) approval has been appealed, seeing that it be overturned, by the undersigned and Skytel entities. This Hearing is on the captioned Maritime Applications, and Maritime counsel had a duty to file an update including under rule Section 1.65 to this Judge

(and to the Wireless Bureau). This is lack of candor. It seems expedited and extraordinary action asserting the bankruptcy court approval as if it was final and not subject to an appeal.

1. Keller did not serve the undersigned a copy of the Keller MO even after the undersigned found out about the Keller MO. See Exhibit 1. (I submit herewith a Declaration in this regard, and in support of other facts I allege herein.)

That failure to serve is deliberate, highly prejudicial, and a violation of ex parte rules. Sanctions should be imposed for this reason and others indicated in Appendix 1 below.

Service to the undersigned was required, and the HS MO was a valid filing, was required since the MO responded to a filing by the undersigned, not by any attorney for the undersigned, and it was authorized in as much as the undersigned was designated as a party in this hearing by the full Commission in the HDO FCC 11-64 (the “HDO”) and was not barred by any Order of the Judge. I further discuss that next.

2. The HS MO presents a showing in accord with the instructions of the Judge with regard to differences between Havens and the SkyTel legal entities, even though the Judge never found and stated any cause for finding these interests were the same, never found and stated good cause that Havens could not represent the SkyTel entities, just as he had been doing for years (and scores of pleadings) leading to, *and that was the basis of, the HDO*, and never in any way found that he did not have the right to self representation (which the Constitution provides for)¹ as an individual party in this Hearing, as designated in the HDO. Further, the Judge has never indicated that the undersigned cannot provide facts including my view of relevant law from FCC rules and Orders: my knowledge of those are facts I learned in long history of AMTS. If my application of those facts as to FCC rules and Orders is not applied in legal arguments in a

¹ I am aware that some attorneys and even judges do not find that a non-attorney may credibly assert Constitutional and other protections, and thus act to the contrary. That would be mistaken in my case. I have taken many cases to district, circuit and the Supreme Court, with counsel, that I began pro se. I will do so in this case to the degree needed.

way the Judge permits, and for good cause ignores them, he can do so.

My position was simple and clear, and indicated in the HS MO in footnote 2, in its reference to my filing dated 10-2-2012. I am acting as carefully as I can in this Hearing to present relevant facts and law, through counsel when available, and otherwise. No one has shown any thing to the contrary.

If the Judge finds that my recent pro se filings cannot be submitted by myself pro se, then good cause has to be shown, and I will have a right to oppose that, or further my position described in the 10-2-2012 filing as to reversible error, and act upon that. If the Judge allows my pro se filings and party status and the full Commission designated for good cause in the HDO, but does not allow them with regard to the SkyTel legal entities, then the filings content is still the same, since the content was not specific to the filers but is a challenge to Maritime.

When Jim Chen filed a notice of appearance he indicated that I reserved the right to proceed pro se, as the Judge had indicated. I have exercised that right, and am presenting relevant information and law, including new essential facts, and will be seeking subpoenas as indicated herein. A person has a unfettered right to hire and discharge counsel. See my filing of yesterday 2-14-13 as to the reasons for the discharge. If Mr. Keller asserts those reasons are not based on the facts I assert, I have the written evidence to show that is false, and that he must know that is false.

3. The 2-7 Opposition is an opposition to the HS Motion and Opposition. FCC rules do not appear to allow an opposition to an opposition, or a reply to an opposition of this sort. §1.294. Thus, the 2-7 Opposition should be dismissed to the degree it deals with the substance of the HS MO: the HS MO substance was all of the pleading but for sections specifically relevant to the motion aspect.

4. In addition to but similar to the deliberate failure to serve, noted above: Keller has in the past repeatedly refused to communicate with the undersigned under Orders of the Judge

with respect to the Glossary undertaking. That was never cured. (And that was while SkyTel has legal counsel involved.) That prejudiced H-S and served to delay and degrade this Hearing.

5. The history of Maritime under legal representation of Mr. Keller and his long-term associate Dennis Brown is shown in this Hearing, and the preceding investigations by the Wireless and Enforcement Bureaus (WB and EB), and summarized in part in the HDO FCC 11-64: its primary course of conduct is to delay, confuse, hide and spoil evidence, misrepresent control, ownership, affiliates, gross revenues, actual construction and operating facts, and other most critical licensing facts, which also lie at the heart of the purpose of the FCC: to license and regulate in the public interest and prevent spectrum warehousing and other anti-competitive and unjust-enrichment misuse of public airwaves. Keller's problem with "Havens" is that Havens has been the one person to seriously and tenaciously stand up to this unlawful action, and to call him out as engaging illegal practice of law. Maritime's problem, to begin with, is that is a sham entity, when its actions that are clear in the just noted proceedings are compared to well-established criteria for finding of a sham corporation. The WB and EB Bureaus ending in the full Commission in HDO FCC 11-64 eventually for the most part agreed, and the Commission based this HDO largely upon Havens' pro se research, pleadings and tenacity from long before Auction 61 up to the time of this HDO. Havens always had legal counsel, when if needed. But the actual history shows that Havens succeeded in this almost entirely on a pro se basis, and this was recognized by the Commission. In parallel, Havens and SkyTel entities are succeeding to date in their Sherman Act antitrust action against Maritime and affiliated in the US District Court, NJ as in part discussed in the filing by the undersigned dated 2. 14.13 (yesterday) regarding discharge of attorney Jim Chen as a Request for Subpoenas to be issued to Maritime and Skytel entities, so that great amounts of evidence from this court action discovery results can be presented to the Judge and EB that is critical to both Issue (g) and the other issues in this Hearing (that pertain to license revocation for repeated violation of FCC law, etc.).

///

Respectfully submitted,

/s/

Warren Havens
Individually and for SkyTel legal entities
(previously defined in this case)

2509 Stuart Street
Berkeley CA 94705
510 841 2220, 848 7797

Dated: February 15, 2013

Declaration

I declare under penalty of perjury the facts I present above are true and correct.

/s/
Warren Havens

Dated: February 15, 2013

CERTIFICATE OF SERVICE

I, the undersigned, certify that on February 15, 2013, I caused a true copy of the foregoing filing in FCC docket 11-71 to be served by USPS first class mail (with courtesy email copies, using emails of record) to:

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/s/

Warren Havens